

IN THE COURT OF APPEALS OF THE STATE OF IDAHO

Docket No. 33599

STATE OF IDAHO,)	2008 Unpublished Opinion No. 580
)	
Plaintiff-Respondent,)	Filed: August 5, 2008
)	
v.)	Stephen W. Kenyon, Clerk
)	
JEREMIAH JAMES RODERICK,)	THIS IS AN UNPUBLISHED
)	OPINION AND SHALL NOT
Defendant-Appellant.)	BE CITED AS AUTHORITY
)	

Appeal from the District Court of the Fourth Judicial District, State of Idaho, Ada County. Hon. Darla S. Williamson, District Judge.

Judgment of conviction and unified sentence of ten years, with two years determinate, for lewd conduct with a minor, affirmed; case remanded for issuance of corrected presentence investigation report.

Molly J. Huskey, State Appellate Public Defender; Justin M. Curtis, Deputy Appellate Public Defender, Boise, for appellant.

Hon. Lawrence G. Wasden, Attorney General; Lori A. Fleming, Deputy Attorney General, Boise, for respondent.

PER CURIAM

Jeremiah James Roderick was charged with and pled guilty to lewd conduct with a minor under sixteen, I.C. § 18-1508, and was sentenced to a unified term of ten years, with two years determinate. Roderick filed an Idaho Criminal Rule 35 motion for reduction of sentence, which the district court denied. Roderick appeals, contending that the district court abused its discretion by imposing an excessive sentence. Roderick also contends that his case should be remanded for correction of the presentence investigation report (PSI). The PSI contains a letter that was submitted and included in the PSI and then the parties stipulated to strike the letter from the PSI. The district court ordered that the letter be excluded, but it was still contained in the PSI at the time of sentencing.

Where a sentence is within the statutory limits, it will not be disturbed on appeal absent an abuse of the sentencing court's discretion. *State v. Hedger*, 115 Idaho 598, 604, 768 P.2d

1331, 1337 (1989). We will not conclude on review that the sentencing court abused its discretion unless the sentence is unreasonable under the facts of the case. *State v. Brown*, 121 Idaho 385, 393, 825 P.2d 482, 490 (1992). In evaluating the reasonableness of a sentence, we consider the nature of the offense and the character of the offender, applying our well-established standards of review. See *State v. Hernandez*, 121 Idaho 114, 117-18, 822 P.2d 1011, 1014-15 (Ct. App. 1991); *State v. Lopez*, 106 Idaho 447, 449-51, 680 P.2d 869, 871-73 (Ct. App. 1984); *State v. Toohill*, 103 Idaho 565, 568, 650 P.2d 707, 710 (Ct. App. 1982). When reviewing the length of a sentence, we consider the defendant's entire sentence. *State v. Oliver*, 144 Idaho 722, 170 P.3d 387 (2007).

Applying the foregoing standards and having reviewed the record, we conclude that the district court did not abuse its discretion by imposing the sentence. Accordingly, Roderick's judgment of conviction and sentence are affirmed.

The authority of a district court to change the contents of a PSI generally ceases once a judgment of conviction and sentence are issued. *State v. Person*, 145 Idaho 293, 296, 178 P.3d 658, 661 (Ct. App. 2007). However, where, as here, the defendant has moved before sentencing to strike information from the PSI, and the district court has granted the motion, the district court may correct the PSI, even after it is in the possession of the Department of Correction, to reflect those portions of the PSI that were objected to by the defendant and disregarded by the court at sentencing. *Id.* *State v. Rodriguez*, 132 Idaho 261, 262-63 n.1, 971 P.2d 327, 328-29 n.1 (Ct. App. 1998). The state concurs with Roderick's request that this case be remanded to the district court with instructions to cross out on Roderick's PSI those portions that were disregarded by the court at sentencing and forward a corrected copy to the Department of Corrections.

Accordingly, we remand the case to the district court for issuance of a corrected presentence investigation report.